



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 11, 2023

2304-VS-05

Exhibit 1

Petition Number: 2304-VS-05

Subject Site Address: 2988 Creeks Crossing Ct. ("the Property")

Petitioner: Andy Tebbe ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach five (5) feet into the thirty (30) foot Rear Yard Setback in the Single-family Low Density (SF-2) zoning district. (Article 4.5(E)(3)(a))

Current Zoning: SF-2: Single-Family Low Density

Current Land Use: Residential

Approximate Acreage: 0.36 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Application

Staff Reviewer: Weston Rogers, Associate Planner

OVERVIEW

Location: The subject property is 0.36 acres +/- in size (the "Property") and located at 2988 Creeks Crossing Ct. in the Bent Creek subdivision (see **Exhibit 2**).

Requested Variances: The petitioner is requesting a Variance of Development Standard to encroach five (5) feet into the thirty (30) foot Minimum Rear Yard Setback to accommodate a swimming pool.

SUMMARY OF VARIANCE

SF-2 standards of the Westfield-Washington Township Unified Development Ordinance (UDO) sets forth a minimum Rear Yard Setback of thirty (30) feet for the property. The Petitioner is requesting this variance to encroach five (5) feet into the Minimum Rear Yard Setback to accommodate a swimming pool and deck as illustrated on the Site Plan (see **Exhibit 3**).



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “New Suburban” land use classification¹. The vision for the New Suburban Residential classification is contemplated for future residential growth of the community, generally to the southwest, northwest, and northeast of the Existing Suburban area.²

The New Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses, artisan farms, and equestrian uses³.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the April 11, 2023 Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁵ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the

¹ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

² Page 40 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

³ Pages 41 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

⁴ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the Variance of Development Standards (2304-VS-05):

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the zoning of the SF-2 zoning district.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent surrounding properties because the use of the Property will not change.

- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in a swimming pool and deck that does not meet the needs of the Petitioner.



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Recommended Conditions:

- That the Property be developed in substantial compliance with the Site Plan (**Exhibit 3**).
- That the Petitioner shall record an acknowledgement of this approval with the County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department.

Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.